

ST 96-24

Tax Type: SALES TAX

Issue: Statute of Limitations Application

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS

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THE DEPARTMENT OF REVENUE )  
OF THE STATE OF ILLINOIS )

v.

TAXPAYER,

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No.

IBT #

Claim For Credit

Alfred Walter

Administrative Law Judge

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**RECOMMENDATION FOR DISPOSITION**

This matter comes on for hearing pursuant to the taxpayer's timely protest of the Department of Revenue's Tentative Determination of Claims, denying six claims for credit filed by the taxpayer for the reason that they were barred by the Statute of Limitations. The taxpayer argued that the statute began to run when he wrote the amounts off as bad debts, after remitting the taxes to the State. The Department's position was that the statute began to run from the date of the taxable event and remission of tax to the State. Following the submission of all evidence and a review of the record, it is recommended that this matter be resolved in favor of the Department.

**Findings of Fact:**

1. The Department's *prima facie* case, inclusive of all jurisdictional elements, was established by the admission into evidence of Group Exhibit 1, which consisted in part of the claims filed by the taxpayer and the Department's tentative denial thereof. (Dept. Grp. Ex. No. 1)

2. The taxpayer testified, and confirmed that he had filed the claims for credit more than three years after he sold taxable items to his customers and remitted the tax thereon to the state, without receiving payment for the merchandise sold. Trans. p. 6

**Conclusions of Law:**

On examination of the record established, this taxpayer has failed to demonstrate by the presentation of testimony or through exhibits or argument, probative evidence sufficient to overcome the Department's Tentative Denial of Claim. Accordingly, by such failure, the determination by the Department that the claims filed by TAXPAYER Company are barred by statute must stand as a matter of law. In support thereof, the following statutory language is applicable.

35 ILCS 120/6 provides in part as follows:

"however, as to any claim for credit or refund filed with the Department on and after each January 1 and July 1 no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of tax or interest under this Act) more than 3 years prior to such January 1 and July, respectively, shall be credited or refunded, except that if both the Department and the taxpayer have agreed to an extension of time to issue a notice of tax liability as provided in Section 4 of this Act, such claim may be filed at any time prior to the expiration of the period agreed upon."

This taxpayer provided no probative evidence of complying with the statute and I am not persuaded that the taxpayer is entitled to any credit or refund.

I recommend that Department's Tentative Denial of Claim be affirmed and finalized as issued.

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Administrative Law Judge